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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,773	02/12/2004	Kenneth Roger Jones	1033-MS1003	2945
66/533 7590 02/27/2009 TOLER LAW GROUP 8500 BLUFFSTONE COVE SUITE A201 AUSTIN, TX 78759				
EXAMINER				
NGUYEN, TOAN D				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/777,773

Applicant(s)

JONES ET AL.

Examiner

TOAN D. NGUYEN

Art Unit

2416

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 13-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 13-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-4 and 13-22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

2. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 5, it is unclear as to what is meant by "terminating the network connection over the DSL line to the remote network after detecting an absence of network capable devices connected to the DSL modem on the local network;". Therefore, the scope of the claim is unascertainable.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 13-14, 16, and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Godse et al. (US 7,127,049).

For claim 13, Godse et al. disclose system and method for enhancing the activation of DSL service, comprising:

a digital subscriber line router (figure 2, reference 104) including detection logic to detect the presence of a powered-on network capable device (figure 2, reference 102, col. 5, lines 4-7) that is connected to the DSL router via a local network (figure 3, reference steps 302 and 304, col. 7, lines 56-59);

a digital subscriber line between the DSL router (figure 2, reference 104) and remote network (figure 2, reference 108)(figure 2, reference 208, col. 4, lines 1-4), wherein a network connection is made over the digital subscriber line to the remote network (figure 2, reference 108) after the detection logic detects the presence of the network capable device that is connected to the DSL router via the local network (col. 7, lines 59-62).

For claim 14, Godse et al. disclose wherein the digital subscriber line router terminates the network connection to the remote network over the digital subscriber line after detecting an absence of any network capable devices connected to the DSL router via the local network (col. 6, lines 2-4).

For claim 16, Godse et al. disclose wherein the network connection is a point to point over Ethernet connection (col. 6, line 12).

For claim 19, Godse et al. disclose system and method for enhancing the activation of DSL service comprising:

a network capable device detection module (figure 2, reference 104), wherein the network capable device detection module is configured to determine whether a

powered-on network capable device (figure 2, reference 102, col. 5, lines 4-7) is connected to the DSL router (figure 2, reference 104) on a local network (figure 3, reference steps 302 and 304, col. 7, lines 56-59);

a DSL modem, wherein the DSL modem is configured to initiate a connection to a remote network (figure 2, reference 108)(col. 7, lines 59-62) when the network capable device detection module determines that at least one powered-on network capable device (figure 2, reference 102) is connected to the DSL router on the local network (figure 3, reference steps 302 and 304, col. 7, lines 56-59).

For claim 20, Godse et al. disclose wherein the network capable device detection module is further configured to detect an absence of a network capable device connected to the DSL router on the local network (col. 6, line 4).

For claim 21, Godse et al. disclose wherein the DSL modem is further configured to terminate a connection to the remote network when no network capable device is connected to the DSL router on the local network (col. 6, lines 2-4).

5. Claims 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Roth (US 7,032,012).

For claim 17, Roth discloses PPPOA spoofing in point-to-point protocol over ATM using an XDSL modem, comprising:

a DSL router (figure 4, reference 50 ADSL Modem) including lease assignment logic (figure 3, reference 52 DHCP Server) to dynamically assign a lease to a network capable device (figure 4, reference 10 Client PC) to permit subsequent connection to a remote network (figure 4, reference 40 NAS)(col. 6, lines 31-45); and

a digital subscriber line between the DSL router (figure 4, reference 50 ADSL Modem) and the remote network (figure 4, reference 40 NAS), wherein a network connection is made over the digital subscriber line after the lease assignment logic has assigned a lease (col. 6, lines 42-45) to the network capable device (col. 9, lines 44-47).

For claim 18, Roth discloses wherein the digital subscriber line router (figure 4, reference 50 ADSL Modem) determines that the dynamically assigned lease has expired and terminates the network connection over the digital subscriber line after detecting that the lease has expired (col. 5, lines 49-54).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godse et al. (US 7,127,049) in view of Ortega et al. (US 6,711,162).

For claims 1 and 15, Godse et al. disclose system and method for enhancing the activation of DSL service comprising:

detecting the presence of a powered-on network capable device (col. 5, lines 4-7) that is connected to a DSL modem (figure 2, references 102 and 104) on a local network (figure 3, reference steps 302 and 304, col. 7, lines 56-59);

establishing a network connection over a DSL line to the remote network (figure 2, reference 108) after detecting the presence of the network capable device that is connected to the DSL modem on the local network (col. 7, lines 59-62); and

terminating the network connection over the DSL line to the remote network after detecting an absence of network capable devices connected to the DSL modem on the local network (col. 6, lines 2-4).

However, Godse et al. do not expressly disclose releasing network resources supported by the remote network after the network connection is terminated. In an analogous art, Ortega et al. disclose releasing network resources supported by the remote network after the network connection is terminated (col. 11, lines 36-37).

Ortega et al. disclose wherein the digital subscriber line router initiates release of network resources supported by a digital subscriber line network connection after the network connection has been terminated (col. 11, lines 36-37 as set forth in claim 15).

One skilled in the art would have recognized the releasing network resources supported by the remote network after the network connection is terminated, and would

have applied Ortega et al.'s PPP termination request message 234 in Godse et al.'s DSL service. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Ortega et al.'s method and apparatus for providing proxy service, route selection, and protocol conversion for service endpoints within data networks in Godse et al.'s system and method for enhancing the activation of DSL service with the motivation being to terminate a connection to a service endpoint (col. 11, line 26).

9. Claims 2-4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godse et al. (US 7,127,049) in view of Roth (US 7,032,012).

For claims 2-4 and 22, Godse et al. do not expressly disclose assigning a dynamic lease to the network capable device. In an analogous art, Roth discloses assigning a dynamic lease to the network capable device (figure 3, reference 52 DHCP Server, col. 6, lines 42-44).

Roth discloses further comprising determining when the dynamic lease expires (col. 9, line 52 as set forth in claim 3); further comprising terminating the network connection over the DSL line after detecting that the lease has expired (col. 5, lines 49-54 as set forth in claim 4); and further comprising a dynamic lease assignment module (figure 3, reference 52 DHCP Server, col. 6, lines 42-44), wherein the dynamic lease assignment module is configured to assign a dynamic lease to a network capable device on the local network, and wherein the DSL modem is further configured to terminate a connection to the remote network after an assigned dynamic lease has expired (col. 5, lines 49-54 as set forth in claim 22).

One skilled in the art would have recognized the assigning a dynamic lease to the network capable device, and would have applied Roth's DHCP Server 52 in Godse et al.'s DSL service. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Roth's PPPOA spoofing in point-to-point protocol over ATM using an XDSL modem in Godse et al.'s system and method for enhancing the activation of DSL service with the motivation being to provide a communications protocol that lets network administrators manage centrally and automate the assignment of Internet protocol (IP) addresses in an organization's network (col. 4, lines 62-65).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN D. NGUYEN whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./
Examiner, Art Unit 2416

/William Trost/
Supervisory Patent Examiner, Art Unit 2416